

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 617

Case No. 89-12

(Text - Theoretical Building Site Provision)

EMERGENCY ORDER

April 17, 1989

On April 17, 1989, the Zoning Commission for the District of Columbia considered the petition of Brandywine Street Project, Friends of Springland, and Foxhall Community Citizens Association that the Zoning Commission initiate a rulemaking case and set an expedited hearing to consider amendment of 11 DCMR 2516, which allows the construction of two or more principal structures on one lot. The Commission also considered the recommendation of the Director of the Office of Planning ("OP"), dated April 13, 1989, that the Zoning Commission adopt an emergency rule to require special exception approval of theoretical building sites.

Having considered the April 11, 1989 letter from the petitioners, including attached correspondence from petitioners to the Zoning Administrator and the OP Director; the April 13, 1989 memorandum from the OP Director; correspondence dated April 17, 1989, from the firm of Wilkes, Artis, Hedrick, and Lane in opposition to emergency action; and a number of letters in support of the position of the petitioners, the Commission decided to effect emergency rulemaking, for the following reasons:

Whereas, 11 DCMR 2516 was originally promulgated to allow for the reasonable development of excessively large lots with a minimal amount of street frontage;

Whereas, 11 DCMR 2516 was promulgated to facilitate the development of multiple unit public housing, albeit the application of the regulation was not limited to such housing;

Whereas, 11 DCMR 2516 is being applied to an increasing degree in circumstances where its application is questionable or problematic, and not for the purpose of developing multiple unit housing;

- Whereas, The construction of more than one principal structure on a single subdivided lot will, under certain circumstances, cause irreparable injury to the stability of residential neighborhoods, contrary to the purpose and intent of the Zoning Regulations;
- Whereas, Review by the Board of Zoning Adjustment, pursuant to the special exception process and standards, of the proposed construction of more than one principal structure on a single lot would provide reasonable protection to the stability of neighborhoods;
- Whereas, Review by the Board of Zoning Adjustment would not altogether prohibit such construction, but would allow it to proceed, albeit subject to a hearing, rather than as a matter of right;
- Whereas, Section 1 of the Zoning Act (Act of June 20, 1938, 52 Stat. 797, also cited as Section 5-413 of the D.C. Code) authorizes the Zoning Commission to adopt regulations "to promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia"; and
- Whereas, Section 1-1506 of the District of Columbia Code authorizes the Zoning Commission to take emergency action for a period not to exceed 120 days "for the immediate preservation of public peace, health, safety, welfare, or morals";
- Therefore: The Zoning Commission resolves that there exists an emergency that requires the immediate amendment of the Zoning Regulations of the District of Columbia to protect the public welfare; and therefore, it is hereby and ordered that, effectively immediately on April 17, 1989, at 8:45 P.M., and for a period not to exceed 120 days beginning on April 17, 1989, 11 DCMR 2516 is amended to read as follows:

2516 EXCEPTIONS TO BUILDING LOT CONTROL

2516.1 If approved by the Board of Zoning Adjustment in accordance with the conditions set forth in section 3108 of this title, two (2) or more principal buildings or structures may be erected on a single subdivided lot, subject to the provisions of Subsections 2516.2 through 2516.7 of this section.

2516.2 The number of principal buildings

permitted by these regulations shall not be limited; Provided, that the applicant for a permit to build submits satisfactory evidence that all requirements of these regulations (such as use, height, bulk, and open spaces around each building) as provided by Subsections 3202.2 and 3202.3 shall be complied with.


- 2516.3 Where a principal building has no street frontage, as determined by dividing the subdivided lot into theoretical building sites for each principal building, the front of the building shall be the side upon which the principal entrance is located. Open space in front of the entrance shall be provided equivalent to the required rear yard in the district in which the building is located; but a rear yard shall be required.
- 2516.4 Where not in conflict with the Act of June 1, 1910, (36 Stat. 452), as amended, the height of a building governed by the provisions of this section, in all districts, shall be measured from the finished grade at the middle of the front of the building.
- 2516.5 The provisions of this section shall also apply to buildings erected under the terms and conditions of Section 410.
- 2516.6 The substantive provisions of this title shall be complied with, and the proposed development shall not be likely to have an adverse effect on the present character and future development of the neighborhood.
- 2516.7 The Board may impose conditions with respect to the size and location of driveways; side and rear yards; net density; design, screening, and location of structures; and any other matter that the Board determines to be required to protect the overall purpose and intent of the Zoning Regulations.

This emergency rulemaking was adopted by the Commission at the special public meeting on April 17, 1989, by a vote of 5-0: (Lindsley Williams, Maybelle Taylor Bennett, Lloyd D. Smith, John G. Parsons, and Elliott L. Carroll to approve).

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In accordance with D.C. Code Section 1-1506(c) (1981), this emergency rule became effective immediately upon adoption on April 17, 1989.

ATTESTED BY:



EDWARD L. CURRY
Executive Director
Zoning Secretariat

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